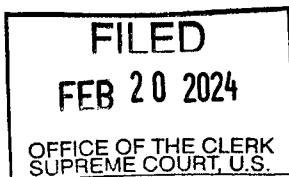


23 - 1304

ORIGINAL

In The
Supreme Court of the United States



Edward L Clark Jr.

Petitioner,

v.

Deborah L Clark.

Respondent.

On Petition for a writ of Certiorari From The
Court of Appeals of California
Fourth Appellate District
Division Three

PETITION FOR WRIT OF CERTIORARI

Edward L. Clark Jr.
5582 McFadden Ave
Huntington Beach, Ca 92649
(714) 448-7145
ed@theelectricalexpert.com

Date: June 3, 2024

Self Represented

QUESTIONS PRESENTED

- 1. Can the Fourth Circuit appellate district legitimize a VOID judgment under the law, for any reason when a judgment was issued: [5] [7];**
 - a. By a person who is not a judge [4]**
 - b. Without subject matter jurisdiction**
 - c. Without a Summons**
- 2. Does The Fourth Appellate District have Subject matter jurisdiction to offer opinion on the merits of a VOID judgment not at issue in the instant appeal?**
- 3. How do either parties' litigants resolve a case they both have settled, when the Fourth Appellate District fails to enforce Rule 3.1385 (b). [2][6],**

PARTIES TO THE PROCEEDINGS AND RELATED PROCEEDINGS

The parties to the proceedings below are as follows:

Petitioner is Deborah L Clark. She was also a Defendant in Civil Court (related case) where both parties stipulated to the undisputed material facts the underlying

acts obtaining a void judgment in Family Court were obtained in Breach 3/21/2016 Contract,

Respondent in Family Court. Petitioner in this Court. is Edward L Clark Jr., He was also Plaintiff in Civil Court (related case) where plaintiff was forced to litigate the enforceability of the terms contained in 2016 Debt Settlement Agreement, since a subordinate judicial officer found the contract valid and enforceable yet issued an order contradicting the terms therein.

The related proceedings below are:

1. Orange County Superior Court
Case # 05D000275
Clark vs Clark
Judgment entered: 2006

2. Orange County Superior Court
Case # 30-2019-01097758
Clark vs Clark
Case Settled via Stipulation: 7/12/2021

3. Court of Appeals Fourth Appellate District
Div. 3
Case G061697
Clark Vs Clark
Appeal Decision
4. Petition For Review
Fourth Appellate District Div 3
Clark vs Clark
Case # S282641
Petition Denied:
5. California Supreme Court
Case# S282642
Clark vs Clark
Date Petition to Review Denied Jan. 17, 2024
6. Ninth Circuit Court of Appeals, California
Clark vs State of Calif
No 23-55715
District case No. 22-cv-1390

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PETITION FOR WRIT OF CERTIORARI

Edward L. Clark Jr, Petitioner, respectfully petitions for a writ of certiorari to review the judgment of the Court of Appeal, State of California, Fourth Appellate District Div 3.

OPINIONS BELOW

Two non-published opinions were issued by the Fourth Appellate District in California without subject matter jurisdiction to offer opinions on the merits of VOID Judgment. The instant opinion filed 9/20/23 was reproduced as “**Appendix A.**” The first opinion referred to a prior opinion in the instant opinion filed 12/2/2020 is reproduced as “**Appendix B.**” Both orders are VOID orders because the Fourth Appellate Division of California does not have subject matter jurisdiction to offer opinions on the merits of VOID orders.

Furthermore, an opinion on the merits of a VOID judgment exceeded the scope of the instant appeal where appellate was seeking enforcement

specifically of Rule 3.1385 (b) where the court denied dismissing orders issued by a Commissioner without (1) Summons, (2) Subject Matter Jurisdiction or (3) a signed stipulation despite no cause shown.

Reproduced as **Appendix E** is 6/3/22 order denying motion and as **Appendix F** order dated 7/22/2022 denying motion to reconsider. Again no cause shown. The court must dismiss in 45-days.

The instant opinion, Appendix A, rather than limit opinion to that of Rule 3.1385 (b) exceeded the scope of appeal, presenting opinion on the merits of a VOID Judgment, in essence giving legitimacy to a VOID judgment not at issue in the instant appeal, thereby consenting (Legitimizing) a VOID Judgment.

A Petition for Rehearing was filed to appeal the VOID Opinion, to point out the errors of the court and highlight the law on VOID Judgments.

When appeal is taken from a void judgment, the appellate court must declare the judgment void.

Because the appellate court may not address the merits, it *must* set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights

are affected.

In lieu of the appellate court declaring the judgment void and dismissing appeal, the court denied Petition for Rehearing on 10/5/23, reproduced as **Appendix C**, legitimizing a VOID Judgment.

The California Supreme Court of California, Request to Review Case S282641, was Denied Reproduced as **Appendix D**.

[1] p3a prg 1. Before we issued our opinion in family court appeal, Edward filed a declaratory relief action against Deborah in Civil court.

[2] p17a prg 2. The sole basis for Edward RFO was a stipulation and settlement agreement that had no force in family court.

[3] p17a 2nd prg Although the code of civil procedure is sometimes used in family court, family law has its own procedures and rules.

[4] P7a prg 1 "We observed that the record belied one of his contentions—that he had not STIPULATED to the matter being heard by a Commissioner.

[5] p18a header note "Whether judgment or order is void is a legal conclusion that neither party is qualified to make.

[6] The continued threat of extortion by the court, refusing to conclude case at the request of both parties, despite joint request by both parties to take judicial notice of settlement, demonstrates the desperate effort to fabricate immunity and only justifies the complaints filed in district court.

[7] fourth circuit denied petition for review to avoid making a legal conclusion. P54a

[8] p5a prg 2 "In 2017, Deborah Called Edward to find out when he was going to resume monthly payments....." Deborah filed for Order on April 17, 2018., in the divorce case asking court to enforce judgment"]

[9] P6a prg 2 "the case was tried to a family law Commissioner over two days"

[10] P26a prg 3 FACTS "we recite the facts from prior appeal that are pertinent to this one"]

JURISDICTION

The opinion of the California Court of Appeal *Petition* was filed 9/20/23. A petition for re-hearing filed 10/2/23. On 10/5/23 the court denied Appellate timely filed request for re-hearing. The California Supreme court denied request for review on January 17, 2024. Remitter issued by appellate court 1/19/2024.

Pursuant to Rule 13, A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review. Deadline to file is April 17, 2024

On February 22, 2024, The Supreme Court of the United States issued a deficiency letter allowing 60-days to refile Writ of Certiorari.

Petition For Writ of Certiorari is timely filed.

INTRODUCTION

This case presents important issues of law with respect to whether or not the Fourth Appellate District in California can validate or legitimize a void judgment for any reason.

Whether or not the Fourth Circuit can assume subject matter jurisdiction to offer its opinion on the merits of a VOID judgment, not at issue in the instant appeal.

The appeal filed was specific to the underlying courts failure to comply with Rule 3.1385 (b) failing to dismiss a VOID order . A Void Judgment issued by a Commissioner who is not a judge.

A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the

consequences of a valid judgment.

Fed Rule 60, Supreme Court (Code 1886, §2870; Code 1896, §3340; Code 1907, §4146; Code 1923, §7861; Code 1940, T. 7, §573.)

When appeal is taken from a void judgment, the appellate court must declare the judgment void. Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected.

Both the instant opinion, Appendix A, and a previous opinion referred to by the court filed 12/2/2020 Appendix B issued by the Fourth Appellate District are VOID on their face, appeal is not necessary.

Supreme Court Decisions on Void Orders: Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608; Pennoyer v. Neff (1877) 95 US 714, 24 L ed 565; Thompson v. Whitman (1873) 18 Wall 457, 21 1 ED 897; Windsor v. McVeigh (1876) 93 US 274, 23 L ed 914; McDonald v. Mabee (1917) 243 US 90, 37 Set 343, 61 L ed 608. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its

judgment is to that extent void." "A void judgment is no judgment at all and is without legal effect." (Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972). A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L Ed 370

The instant appeal to the Fourth Appellate Division was very specific to one issue. The effects of Rule 3.1385 (b). The only issue the Fourth Appellate District had subject matter jurisdiction in the instant appeal was to enforce Rule 3.1385 (b) dismissing a VOID order issued by a person who is not a judge and did not have subject matter jurisdiction.

Upon receipt of the Fourth Circuit Opinion, an appeal of the Void order was filed in Petition for Rehearing. The Fourth Appellate Division denied reviewing its own legal errors.

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not

address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192, 194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.). A Party Affected by VOID Judicial Action Need Not APPEAL. *State ex rel. Latty*, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J. concurring).

STATEMENT OF THE CASE

The instant matter is to determine:

(1) If the Fourth Appellate district had subject matter jurisdiction to offer opinion on the merits of a VOID Judgment at any time and outside the scope of an appeal seeking compliance with Rule 3.1385 (b), dismissing a VOID Judgment.

(2) If the Fourth Appellate district has the authority to not comply with Rule 3.1385(b) that states the court MUST dismiss within 45 days of

notice of settlement if cause is not shown. (Dismissal of Void 2018 Order issued by a Commissioner)

(3) if the Fourth Appellate division has the legal authority to validate or legitimize a void judgment?

Or

(4) in the alternative is the Fourth Appellate District

required to set aside the court's judgment denying compliance with Rule 3.1385(b),

- a. Because the order is Void
- b. And because it has been more than 45-days the

court was noticed of settlement pursuant to Rule 3.1385 (b)

(5) If the Fourth Appellate Division has the legal authority to deny a Petition for re-hearing when the court is informed it issued a VOID judgment by providing opinion on the merits of a VOID Judgment. Outside the narrow scope of the appeal addressing only Rule 3.1385 (b).

AT ISSUE

**THE FOURTH APPELLATE DIVISION IS
CONFLICTED WITH ESTABLISHED
PRECEDENT ON VOID JUDGMENTS**

Petitioner was affected by VOID Judgment, not at issue and outside the scope of instant appeal to deny enforcement by the court of Rule 3.1385 (b). Dismissing a Void Judgment.

Simon v. Southern Ry. Co., 236 U.S. 115 (1915)
United States courts, by virtue of their general equity powers, have jurisdiction to enjoin the enforcement of a judgment obtained by fraud or without service.

In the absence of service of process, a person named as defendant can no more be regarded as a party than any other member of the community.

A judgment against a person on whom no process has been served is not erroneous and voidable, but, upon principles of natural justice and also under the due process clause of the Fourteenth Amendment, is absolutely void.

Jurisdiction of the United States courts cannot be lessened or increased by state statutes regulating venue or establishing rules of procedure. While § 720, Rev. Stat., prohibits United States courts from staying proceedings in a state court, it does not prevent them from depriving a party of the fruits of a fraudulent judgment, nor from enjoining a party from using that which he calls a judgment but which is, in **Page 236 U. S. 116** fact and in law, a mere nullity and absolutely void for lack of service of process. *Marshall v. Holmes*, 141 U. S. 589.

LATIMER v. VANDERSLICE 1936 OK 55462
P.2d 1197178 Okla. 501 Case Number: 26672 Void
Judgment Subject to Vacation Any Time Though
Affirmed on Appeal.

A void judgment is without force and effect and may be vacated at any time. The fact that a void judgment has been appealed to the Supreme Court and affirmed adds nothing to the purported judgment.

United States Constitution, Amendment XIV:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are

citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Law of Void Judgments and Decisions
Supreme Court Decisions on Void Orders: Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608; Pennoyer v. Neff(1877) 95 US 714, 24 L ed 565; Thompson v. Whitman (1873) 18 wall 457, 21 1 ED 897; Windsor v. McVeigh (1876) 93 US 274, 23 L ed 914; McDonald v. Mabee (1917) 243 US 90, 37 set 343, 61 L ed 608. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120c.) "A void judgment is no judgment at all and is without legal effect." (Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972). A void judgment does not create any binding obligation. Federal decisions addressing void state

court judgments include *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370. Federal judges issued orders permanently barring Stich from filing any papers in federal courts. After Judges Robert Jones and Edward Jellen corruptly seized and started to liquidate Stich's assets, Judge Jones issued an unconstitutional order barring Stich from filing any objection to the seizure and liquidation. **Void Orders Can Be Attacked At Any Time** An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff*(1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman*(1873) 18 wall 457, 211 ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 set 343, 61 L ed 608. *U.s. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985) ("Portion of judgment directing defendant not to import vehicles without first obtaining approval... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722.

A JUDGMENT rendered without jurisdiction is "void" and has no effect as res judicata or otherwise.

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties, *Wahl v. Round Valley Bank* 38 Ariz. 411, 300 P. 955 (1931); *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914); and *Milliken v. Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940). A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court, *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999).

Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering

judgment, U.S.C.A. Const. Amed. 5, Hays v. Louisiana Dock Co., 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983). Matter of Marriage of Hampshire, 15.

It is error of The Fourth Appellate Div. to judicially noticed a prior VOID DISPUTED Judgment over Respondent objections. Where The Fourth Appellate Div. offered an opinion on the merits of a VOID judgment, rendering the opinion itself VOID, the contents therein are all disputed:

452(h). The California supreme Court has held that even Judicial notice of authenticity and contents of an official document does not establish the truth of the recitals therein, nor does it render inadmissible hearsay admissible, Mangini v. R.J. Reynolds Tobacco Co. (1994) 7.Cal.4th 1057,1063 (truth of government reports of tobacco use not judicially noticeable; see ; people v. Long (1970) 7 Cal. App. 3d 586,59 ("While the courts take judicial notice of public records they do not take notice of the TRUTH OF THE MATTERS STATED THERIN); Morocco v. Ford Motor Co. (1970) 7 Cal. App. 3d 84,88 (judicial notice of the authenticity and contents of an official document does not establish the truth of the recitals therein, nor does it render inadmissible hearsay admissible.

A court may "take judicial notice of undisputed matters of public record, including documents on file in federal or state courts." See Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.

BACKGROUND

A. FOURTH APPELLATE OPINION PROVES JUDGMENT IS VOID

(1) Notwithstanding the undisputed material facts, the lower courts took judicial notice of relevant documents all of which bars subject matter jurisdiction in Family Court. The 2006 judgment, the 1/14/13 satisfaction of judgment, the 3/21/2016 Debt Settlement Agreement and the joint stipulation of the parties 7/12/21 confirming the lower courts actions were in Breach of contract.

(2) [8] The Fourth Appellate District opinion goes one step further to prove the Family law division did not have subject matter jurisdiction [Appendix A, p5a, prg 1,: p6a- prg 1] confirmed the RFO for arrears was issued based on a 2017 phone

call after the parties fully executed a 2016 Debt Settlement Agreement confirming if any allegations, existed regarding the 3/21/2016 Debt settlement contract a summons and complaint should have been served filed in Civil Court. A summons was not served.

The finding of the appellate court proves a summons was necessary if there was a complaint regarding a fully executed 3/21/2016 Debt Settlement agreement. Thus, proving the 2018 RFO had nothing to do with arrears of a 2006 judgment that had no provisions for alimony or child support,

(3) The instant opinion relies on disputed opinion filed 12/2/2020 that:

First: was itself VOID for addressing the merits of a VOID Judgment and

Second: was written to prejudice Appellate See [APP B; p26a Facts prg 1] “*As we are required to do, we recite facts in manner most favorable to the judgment*”.

Third: The motive and reason for voluminous court errors can be seen in related district court case 22-01390 currently in the U.S. Ninth Circuit Court of Appeals in California case 23-55715. Clark vs State of

Calif ET.,Al., where the issue is whether or not judicial defendants can claim judicial immunity under Rooker Feldman Doctrine resulting from a VOID Judgment issued without subject matter jurisdiction, to prevent a case for judicial misconduct proceeding in district court via motions to dismiss.

“Service of process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant.” Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350 (1999). Service of a summons to answer the complaint is “the procedure by which a court . . . asserts jurisdiction over the person of the party served.” Ibid. (quoting Mississippi Publ’g Corp. v. Murphree, 326 U.S. 438, 444-445 (1946)). Accordingly, “[i]n the absence of service of process (or waiver of service by the defendant), a court ordinarily may not exercise power over a party the complaint names as defendant.” Ibid

The order to appear was executed by the court, without a summons CONFIRMED BY THE Fourth Appellate District.

[see Appendix A, Page 6a prg 1]:

The order was based on a 2017 phone call addressing issues over a 3/21/2016 contract. confirming the RFO resulted from a phone call in 2017 - 2 years one month after fully executed Debt Settlement Agreement that states:

“Deborah signed Debt Settlement Agreement March 16. 2016.....”

“In 2017 Deborah called Edward to find when he was going to resume monthly payments....”

“Deborah filed Request for Order April 17, 2018.....”

The Fourth Circuit Opinion clearly conflicts with the lower court argument this case had to do with arrears of a 2006 judgment that had no provisions for alimony or child support.

Nonetheless, confirming the Family court did not have subject matter jurisdiction and a summons was required if there was an alleged issue with the fully executed Debt Settlement Agreement dated 3/21/2016.

The Judgment is VOID.

**B. SUBJECT MATTER JURISDICTION WAS
BARRED IN FAMILY COURT**

THE JUDGMENT IS VOID

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. See: *Wahl v. Round Valley Bank*, 38 Ariz. 411, 300 P.955 (1931); *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914); *Milliken v. Meyer*, 311 U.S. 457, 61 S. Ct. 339, 85 L. Ed. 2d 278 (1940); *Long v. Shore bank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999)

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. *Klugh v. U.S.*, 620 F. Supp. 892 (D.S.C. 1985).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See *Long*

v. Shore bank Development Corp., 182 F.3d 548
(C.A. 7 Ill. 1999)

A void judgment is one which, from its inception, was a complete nullity and without legal effect.

The 7/12/2021 JOINT Stipulation by both parties' litigants in evidence, the lower court took judicial notice was executed and witnessed by a Superior court judge. The joint stipulation confirms both parties' litigants agreeing the actions in lower Family court and judgment rendered was in Breach of Contract. It is unclear the legal authority why the fourth appellate division won't accept as the truth of the matter from a superior court judge after the lower court took judicial of same stipulation.

**C. THE FOURTH APPELLATE DISTRICT
ACKNOWLEDGES A JUDGE DID NOT
PRESIDE [9], FAILED TO RESPOND
TO FACTS IN EVIDENCE**

Court Reverses All Orders Made in Dissolution Proceeding when Commissioner Neglected to Obtain Husband's Consent to Proceed before Commissioner

In re Marriage of Djulus (Case No. D069757; Ct. App., 4th Dist., Div. 1. 4/14/17) — Cal. App. 5th —, — Cal. Rptr. 3d —, 2017 Cal. App. LEXIS 343 By Benke, J. (McConnell, P. J., Nares, J., concurring) An appeals court reversed a judgment of dissolution and all orders made in the proceeding, including restraining orders, when the proceeding was heard by a commissioner without the husband's consent

The Court can't get around a basic Judicial Omission by the Commissioner. A judicial admission by Commissioner Michaelson himself documented in court minutes dated 7/31/2019 finding he was proceeding based on two stipulations that were not signed by the parties' litigants. The first Stipulation the Commissioner relied on was filed 6/11/2018 is not complete, no party litigant signed and stipulation #2 filed 8/22/2018 has two signatures one of which is opposing counsel signing as if he was a Respondent.

The evidence shows both the Commissioner and opposing counsel concealed this fact a fake stipulation executed by opposing counsel was concealed for 10 months until impeached on the record.

*The Law and Power of a court
commissioner to act as a temporary judge.*

emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause.")

The facts in evidence clearly shows a Commissioner who relied on two stipulations that were not signed by either of the parties litigants. Therefore, neither of which gives permission for a Commissioner to preside as a judge.

**D. THE COURT CONTROLS THE COURT
REGISTER**

The appellate court opinion denying compliance with Rule 3.1385 (b) is based on apparent mistake of the lower court not documenting correctly the order to show cause in the court register. The appeal identifies specifically the docket number and date motion was served and when the court was notified of settlement. Thus the Fourth Circuit indicate an "Order to Show Cause" wasn't in the record as the basis for their decision, yet the appeal is very specific with the court docket information.

E. DENYING PETITION FOR REHEARING

Conflicts with established precedent

Notwithstanding the instant appeal to get court to comply with Rule 3.1385 (b) to dismiss VOID actions of a Commissioner, the Fourth Circuit Division

- 1) declined to allow Oral Argument from Petitioner who appeared in support of Respondent appeal at Oral Arguments. The court declined to allow Petitioner to submit to appeal in Oral Arguments. Or file RFO written request by Petitioner in support of Respondent appeal.

- 2) On request to consider VOID judgments were issued, denied petition for Re-hearing.

REASONS FOR GRANTING WRIT

1. ENFORCE ESTABLISHED PRECEDENT

The parties litigants, both of them have exhausted all remedies asking the court to dismiss a VOID Judgment from the record to allow both parties to conclude case. A consenting appellate allowing VOID orders to remain in the court record leaves both parties litigants without a path to conclude case.

2. THE FOURTH APPELLATE DISTIRCT BROKE FROM ESTABLISHED PRECEDENT

The fourth Appellate Division has broke so far from established precedent with respect to legitimizing a VOID judgment, it warrants the exercise of supervisory authority to enforce well established authority to ensure equal protection

under the Fourteenth Amendment to the U.S. Constitution.

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.). A Party Affected by VOID Judicial Action Need Not APPEAL. *State ex rel. Latty*, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J. concurring).

The petition for Rehearing request the court to comply with existing precedent. The petition was denied.

3. BECAUSE THE FOURTH APPELLATE DISTRICT NARRATIVE IS MISLEADING

The narrative represented by the Fourth Circuit is misleading attempting to establish incompetence from a prose litigant stating appellate has been self-represented, thereby trying to represent the lack of knowledge is false. The opinion on [App.A page 2a prg 1] stating "Edward represented himself in the family court below". When the truth is, Mr. Clark was represented by counsel in the lower family court and post hearing motions who made all the same arguments described herein. It appears to make for a better argument to attack and misrepresent the actions by someone who later is self-represented rather than the merits of the underlying matter.

4. BECAUSE FAMILY LAW DIVISION OF SUPERIOR COURT VS. THE PARTIES LITIGANTS CONFLICTS WITH ESTABLISHED PRECEDENT.

The immediate Appeal to the U.S. Supreme Court is unique in that the underlying matter has

nothing to do with two parties litigants opposing each other, or failing to resolve their differences, they have, they have both settled Both are trying to get the lower court to either dismiss a void judgment entered by a Commissioner (not a judge) or in the alternative enter settlement documents into the court record as an alternative to dismissing a VOID Judgment.. The underlying appeal to the US Supreme court is strictly the Family Law Division of Superior Court vs Both parties litigants refusing to either (1) dismiss a void judgment or 2) enter settlements documents both parties have requested into the court record to conclude case. That includes the 3/21/2016 Debt Settlement Agreement and a stipulation dated 7/12/21 that clearly shows both parties agreement all matters by the lower court were done so in Breach of 3/21/2016 Bebt Settlement Agreement

The reason for the courts refusal to dismiss VOID Judgment or as alternative enter settlement documents into the record at the request of both parties, is trying to establish judicial immunity protection under Rooker-Feldman doctrine to support request to dismiss case c for judicial misconduct in district court. in California district court case 22-1390

currently in the ninth circuit court of appeals case No 23-55715.

The role of the court should be to officiate cases to closure, not prevent cases from closure.

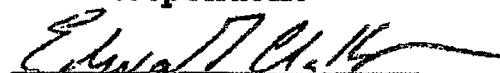
CONCLUSION

For the foregoing reasons, Edward L. Clark Jr. respectfully ask for this court to grant Writ of Certiorari or in the alternative send back to either the California Supreme court or the Fourth Appellate district to review and publish request opinion to be published if new precedent is to be established.

Respectfully Submitted by,

Date 4/8/24

Respondent



Edward L. Clark Jr.-

Self Represented